

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>IN RE:</b>	:	<b>CHAPTER 13</b>
<b>THOMAS N KOUNAS</b>	:	
<b>aka Thomas Nick Kounas,</b>	:	<b>CASE NO. 1:17-bk-02473</b>
<b>Debtor</b>	:	
	:	
<b>THOMAS N KOUNAS</b>	:	
<b>aka Thomas Nick Kounas,</b>	:	
<b>Movant</b>	:	
<b>v.</b>	:	
<b>Capital One Bank (USA), N.A. by</b>	:	<b>OBJECTION TO CLAIM # 1</b>
<b>American InfoSource LP as agent,</b>	:	
<b>Respondent/Claimant</b>	:	

**OBJECTION TO PROOF OF CLAIM #1**

COMES NOW the Debtor, by and through attorney Dorothy L. Mott, Esquire and makes this Objection to Creditor's claim filed in the above-captioned bankruptcy proceeding, stating in support there of as follows:

1. The Debtor filed a Chapter 13 bankruptcy proceeding on 6/12/2017.
2. The Respondent, CAPITAL ONE, filed an unsecured claim on or about July 28, 2017 in the amount of \$19,554.35.
3. Federal Rule of Bankruptcy Procedure 3001(c) requires that 'when a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or damaged, a statement of the circumstances of the loss or destruction shall be filed with the claim.'
4. The creditor's claim is based on a writing, and the documents, if any, attached to the proof of claim do not include the original or a copy of such writing, or a statement of the circumstances of the loss or destruction, if any, of the writing.
5. Rule 3001(c)(2)(A) requires an itemized statement showing all applicable interest, fees, expenses, and/or charges be filed with the proof of claim.

6. Without the required documentation attached to the claim, Debtor's counsel cannot ascertain whether the claim amount is correct and which state's statute of limitations applies.

7. If the applicable statute of limitations is Pennsylvania, then the Respondent's claim is beyond the statute of limitations for collection.

8. The Debtor believes that the claim is beyond the statute of limitations for collection and may be overstated, but without further documentation cannot determine the validity of the claim. The attachment to the proof of claim indicates that the last transaction on the account was made on June 21, 2013 and the obligation was charged off on September 14, 2013. Debtor's counsel emailed the Respondent on November 9, 2017:

Kounas 1-17-02473 Proof of claim #1  
Thu, Nov 9, 2017 11:43 am  
Dorothy L. Mott doriemott@aol.comHide

To POC\_AIS POC\_AIS@americaninfosource.com  
Cc karagendron karagendron@gmail.com

Pursuant to Bankruptcy Rule 3001(c), I am requesting the documentation that demonstrates that the last payment on the account was made on June 21, 2013 and that the last transaction on the account was on June 21, 2013. Please provide this documentation within thirty days of the date of this email. Thank you.

Dorothy L. Mott  
Mott & Gendron Law  
125 State Street  
Harrisburg, PA 17101  
717.232.6650 Tel  
717.232.0477 Fax  
[doriemott@aol.com](mailto:doriemott@aol.com)

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The Respondent has not responded to the Debtor's request to produce documentation.

9. Although the Claimant indicates that its claim is for principal only, Debtor believes

that the amount includes interest, fees or other charges, which would require the Claimant to comply with Rule 3001(c)(2)(A) and provide a breakdown of the additional fees and charges.

10. The claim should be disallowed because the claim is beyond the statute of limitation for collections.

WHEREFORE, the Debtor hereby requests that this Honorable Court enter an order

1. Disallowing and dismissing the claim; and
2. Precluding the Claimant from presenting the omitted information as evidence in any contested matter or adversary proceeding pursuant to Rule 3001(c)(2)(D)(i); and
3. Granting such other relief as this Court deems just.

Respectfully submitted,

/s/ Dorothy L. Mott

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Dorothy L. Mott, Esquire  
Mott & Gendron Law  
125 State Street  
Harrisburg, PA 17101  
717.232.6650 Tel  
717.232.0477 Fax  
doriemott@aol.com

**LOCAL BANKRUPTCY FORM 3007-1  
IN THE UNITED STATES BANKRUPTCY COURT  
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<b>Objector(s)</b>	:	
	:	
<b>Capital One Bank (USA), N.A. by</b>	:	
<b>American InfoSource LP as agent,</b>	:	
<b>Respondent/Claimant</b>	:	
	:	

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**TO:CAPITAL ONE BANK ("Claimant")**

**NOTICE OF OBJECTION TO CLAIM AND DEADLINE TO REQUEST HEARING  
DATE**

Thomas N Kounas has filed an objection to the proof of claim you filed in this bankruptcy case.

**NOTICE: Your claim may be reduced, modified, or eliminated.** You should read this notice and the objection carefully and discuss them with your attorney, if you have one.

If you do not want to the court to enter an order affecting your claim, then on or before April 7, 2018, (30 days from the date of service), you or your lawyer must file a request for hearing or a written response to the objection explaining your position.

Those not permitted to file electronically must deliver any request for hearing or response by U.S. mail, courier, overnight/express mail, or in person at: (select the appropriate address)

Ronald Reagan Federal Building  
228 Walnut Street Rm 320  
Harrisburg, PA 17101

If you mail your request for hearing or response to the court, you must mail it early enough so the court will receive on or before the date stated above.

You must also send a copy of your request for hearing or response to:  
Dorothy L. Mott, Esquire

Mott & Gendron Law  
125 State Street  
Harrisburg, PA 17101  
717. 232.6650 Tel  
717.232.0476 Fax  
doriemott@aol.com

**If you or your attorney do not take these steps, the court may decide that you do not oppose an order affecting your claim. Attorney for Objector**

/s/ Dorothy L. Mott  
Mott & Gendron Law  
PA ID: 43568  
125 State Street, Harrisburg PA 17101  
717. 232.6650 Tel  
717.232.0476 Fax  
doriemott@aol.com

Date of Notice: March 8, 2018

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<b>Respondent/Claimant</b>	:	

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on March 8, 2018, I served a copy of the foregoing document(s) electronically or by placing the same in the United States Mail, First Class, postage pre-paid, addressed as follows on the following parties:

Name and Address	Mode of Service
CHARLES J DEHART, III ESQUIRE 8125 ADAMS DRIVE SUITE A HUMMELSTOWN PA 17036 <a href="mailto:dehartstaff@pamd13trustee.com">dehartstaff@pamd13trustee.com</a>	Electronically
Capital One Bank (USA), N.A. by American InfoSource LP as agent PO Box 71083 Charlotte NC 28272-1083	First Class Mail, Postage Prepaid

I certify under penalty of perjury that the foregoing is true and correct.

Date: 03/08/2018

/s/Dorothy L Mott

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Dorothy L Mott, Esquire  
Atty ID #43568  
Dorothy L. Mott Law Office, LLC  
125 State Street  
Harrisburg, PA 17101  
(717) 232-6650 TEL  
(717) 232-0477 FAX  
doriemott@aol.com

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**ORDER**

UPON CONSIDERATION of the Objection to Proof of Claim filed by the Debtor, it is  
hereby

ORDERED that the claim of the Respondent is disallowed and dismissed; it is further

ORDERED that the Claimant is precluded from presenting the omitted information as  
evidence in any contested matter or adversary proceeding pursuant to Rule 3001(c)(2)(D)(i)